

The Honorable James L. Robart

IN THE UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON

Joseph J. Hesketh III,  
*on his behalf and on behalf of other  
similarly situated persons*

Plaintiff,

v.

Total Renal Care, Inc, on its own behalf and  
on behalf of other similarly situated  
persons,

Defendants.

Case No: 2:20-cv-01733-JLR

DECLARATION OF SCOTT C. BORISON  
IN SUPPORT OF MOTION TO CERTIFY  
PLAINTIFFS' CLASS

Scott C. Borison, being of lawful age, declares:

1. I have personal knowledge of the facts set forth herein.
2. I submit this declaration in support of my client's Motion to Certify a Class.
3. I am an attorney first licensed to practice law in 1987. I am currently admitted to practice before the Maryland Court of Appeals, Court of Appeals for the District of Columbia, Supreme Court of California, and various federal courts, including the 1st, 3<sup>rd</sup>, 4<sup>th</sup>, 7<sup>th</sup>, 9<sup>th</sup>, 10<sup>th</sup> and 11<sup>th</sup> Circuits.
4. My practice includes representing consumers. I have represented consumers in cases involving federal and state laws designed to protect consumers.
5. My co-counsel and I have and will devote the resources necessary to pursue the claims in this action.

1           6.       My co-counsel in this case is J. Craig Jones, who is an experienced lawyer  
2 in Louisiana since 1986 who has been actively involved in the litigation of claims  
3 relating to complex personal injury and business matters and Christina Henry who is an  
4 experienced lawyer and although she has not previously served as class counsel, her  
5 experience and knowledge is sufficient to be found adequate.

6                       7.       I have testified before legislatures relating to the enactment of  
7 consumer protection laws.

8           8.       I have been appointed as class counsel in various actions before Federal  
9 and State Courts including:  
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11 **FEDERAL:**

12           a. *Anderson v. GMAC Mortgage Corporation*, Case No. AMD oo CV 3364, U.S.  
13 District Court for the District of Maryland – involving claims under the Truth in  
14 Lending Act, Home Ownership and Equity Protection Act and State Lending Laws.

15           b. *Knott v. FT Mortgage Companies*, 99-1402 DK, U.S. Bankruptcy Court for the  
16 District of Maryland – involving claims under State lending laws.

17           c. *Fogarty Fultz v. Chase Manhattan Mortgage Corporation*, 99-1367 PM, U.S.  
18 Bankruptcy Court for the District of Maryland - involving claims under State lending  
19 laws.  
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21           d. *Hyde v. RDA, Inc.*, 05-317-RDB, U.S. District Court for the District of  
22 Maryland (in connection with FCRA settlement class).

23           e. *Curry v. Fairbanks Capital Corporation*, 03-10875-DPW (D. Mass.)  
24 (\$55,000,000 settlement of nationwide class action based on predatory loan servicing  
25 practices)(co-counsel).  
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1 f. *Gaddis v. Vincent Abell*, et al., 05-1762 PM, U.S. Bankruptcy Court for the  
2 District of Maryland – involving claims under bankruptcy laws relating to foreclosure  
3 fraud.

4 g. *Winston v. Regional Title & Escrow LLC.*, 08-2633 RWT, United States  
5 District Court for the District of Maryland;

6 h. *Proctor, et al, v. Metropolitan Money Store Incorporated*, 07-1957 RWT,  
7 United States District Court for the District of Maryland;

8 i. *Miller v. Prestige Financial Services, Inc.*, 09-1671 BEL, United States District  
9 Court for the District of Maryland.

10 j. *Johnson v. Midland Funding, LLC.*, 09-2391-ELH, United States District Court  
11 for the District of Maryland.

12 k. *Bradshaw v. Hilco Receivables, LLC.*, 10-0113- RDB, United States District  
13 Court for the District of Maryland.

14 l. *Veiga, et al., v. Suntrust Bank*, 09-2815-PWG, United States District Court for  
15 the District of Maryland.

16 m. *Muga, et al., v. BB & T*, 10-890-PWG, United States District Court for the  
17 District of Maryland.

18 n. *Hauk, et al., v. LVNV Funding LLC.*, 1:09-cv-03238-CCB, United States  
19 District Court for the District of Maryland

20 o. *Tyeryar v. Main Street Acquisition Corp., CIV.A*, 11-250-CCB United States  
21 District Court for the District of Maryland

22 p. *Gardner v. MCTFCU*, 10-cv-2781-BPG, United States District Court for the  
23 District of Maryland.

1 q. *Stone v. Wayric*, 10-00484-BPG, United States District Court for the District  
2 of Maryland.

3 r. *Castillo v. Nagle & Zaller, PC.*, 12-02338-WDQ, United States District Court  
4 for the District of Maryland.

5 s. *Driscoll v. Navy Federal Credit Union*, 13-00137-BPG, United States District  
6 Court for the District of Maryland.

7 t. *Prindle v. Carrington Mortgage*, 3:13-cv-01349-MMH-PDB, United States  
8 District Court for the Middle District of Florida.

9 u. *Allred v. Recontrust N.A.*, 13-cv-1124-BSJ, United States District Court for the  
10 District of Utah.

11 **STATE:**

12  
13 a. *Heist v. Chase Manhattan Mortgage* - involving claims under State lending  
14 laws.

15 b. *Shorb v. Draper & Goldberg, PLLC.*, - involving claims under state and federal  
16 consumer protection laws.

17 c. *Bain v. Second Waverly Limited Partnership* – involving claims under  
18 landlord tenant laws.

19 d. *Lavelle v. Americredit* – involving claims under State lending laws.

20 e. *Cole v. Tidewater Financial* - involving claims under State lending laws.

21 f. *Finch v. LVNV Funding, LLC.* – involving claims under state consumer  
22 protection laws.

23 g. *Jason v. National Loan Recovery* - involving claims under state consumer  
24 protection laws.

1 h. *Claiborne v. Maryland Management Company* - involving claims under state  
2 consumer protection laws.

3 i. *Elias v. Synchrony Bank*, involving claims under California law.

4 j. *Moya v. Aurora Health Care Inc.*, involving claims under Wisconsin law.

5 k. *Harwood v. Wheaton Franciscan*, involving claims under Wisconsin law.

6 l. *Rave v. SVA Healthcare, LLC.*, involving claims under Wisconsin law.

7  
8 m. *Midland Funding, LLC. v. Giles, (Counterclaim Class)*, involving claims under  
9 Louisiana law for unlicensed debt collection.

10 9. I have been lead counsel in trials of class cases, including one that resulted  
11 in a multimillion dollar jury verdict for the class members.

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13 10. I have represented consumers in reported cases under various consumer  
14 protection laws which include:

15 *Smith v. Recordquest, LLC.*, 989 F.3d 513 (7<sup>th</sup> Cir. 2021).

16 *Lawrence v. First Financial Investment Fund V, LLC*, 336 F.R.D. 366 (D.Utah,  
17 2020)

18 *Townsend v. ChartSwap, LLC*, 952 N.W.2d 831 (Wis.App., 2020)

19 *Lawrence v. First Financial Investment Fund V, LLC*, 444 F.Supp.3d 1313  
20 (D.Utah, 2020)

21 *Kemp v. Nationstar Mortgage Association*, 248 Md.App. 1 (2020)

22 *Smith v. Wakefield, LP*, 460 Md. 6 (2019)

23 *Cain v. Midland*, 156 A.3d 807, 817, 452 Md. 141, 158 (Md., 2017)

24 *Jason v. National Loan Recoveries LLC.*, 227 Md. App. 516 (2016)

25 *Old Republic Ins. Co. v. Gordon*, 228 Md.App. 1 (2016)

1 *Martino v. American Airlines Federal Credit Union*, 121 F.Supp.3d 277 (D.Mass.,  
2015)

2 *Finch v. LVNV Funding, LLC* 212 Md.App. 748, 71 A.3d 193 (Md.App.,2013)

3 *Franklin Credit Management Corp. v. Nefflen*, 208 Md.App. 712, 57 A.3d  
4 1015 (Md.App.,2012)

5 *Epps v. JP Morgan Chase Bank, N.A.* 675 F.3d 315 (4<sup>th</sup> Cir. 2012)

6 *Gardner v. Montgomery County Teachers Federal Credit Union* 2012 WL  
7 1994602 (D.Md.,2012)

8 *In re Checking Account Overdraft Litigation* MDL No. 2036, 674 F.3d 1252 (11<sup>th</sup>  
9 Cir. 2012)

10 *Ford Motor Credit Co., LLC v. Roberson*, 420 Md. 649, 25 A.3d 110 (Md.,2011)

11 *Bradshaw v. Hilco Receivables, LLC*, 765 F. Supp. 2d.719 (D.Md. 2011)

12 *Hauk v. LVNV Funding, LLC*, 749 F.Supp.2d 358 (D.Md.,2010)

13 *In re Community Bank of Northern Virginia*, 622 F.3d 275 (3<sup>rd</sup> Cir. 2010)

14 *Poku v. F.D.I.C.* 752 F.Supp.2d 23 (D.D.C.,2010)

15 *Bradshaw v. Hilco Receivables, LLC* 725 F.Supp.2d 532 (D.Md.,2010)

16 *Proctor v. Metropolitan Money Store Corp.*, 645 F.Supp.2d 464 (D.Md.,2009)

17 *Griffin v. Bierman*, 403 Md. 186, 941 A.2d 475,( Md. 2008)

18 *Poku v. Friedman*, 403 Md. 47, 939 A.2d 185, (Md. 2008)

19 *Sullivan v. Greenwood Credit Union*, 520 F.3d 70 (1<sup>st</sup> Cir. 2008)

20 *Chambers v. Cardinal*, 177 Md.App. 418, 935 A.2d 502, (Md.App. 2007)

21 *Wells Fargo Home Mortg., Inc. v. Neal*, 398 Md. 705, 922 A.2d 538, (Md. 2007)

22 *Neal v. Wells Fargo Home Mortg., Inc.*, 168 Md.App. 747, 899 A.2d 208,  
23 (Md.App. 2006)

24 *In re Cmty. Bank of N. Va. & Guar. Nat'l Bank of Tallahassee Second Mortg.*  
25 *Loan Litig.*, 418 F.3d 277 (3d Cir. 2005)

1 *In re Cmty. Bank of N. Va. & Guar. Nat'l Bank of Tallahassee Second Mortg.*  
2 *Loan Litig.*, 795 F.3d 380 (3<sup>rd</sup> Cir. 2015)

3 *Len Stoler, Inc. v. Wisner*, 223 Md.App. 218 (Md.App., 2015)

4 *NVR Mortg. Finance, Inc. v. Carlsen*, 439 Md. 427 (Md., 2014)

5 *Hyde v. RDA, Inc.*, 389 F.Supp.2d 658, (D.Md. 2005)

6 *Thomas v. GMAC Residential Funding Corp.*, 309 B.R. 453 (D. Md. 2004)

7 *McKenzie v. Ocwen Fed. Bank FSB*, 306 F. Supp. 2d 543 (D. Md. 2004)

8 *In re Brown*, 300 B.R. 871 (D.Md., 2003)

9 *Ray v. Citifinancial, Inc.* 228 F. Supp. 664, 665 (D.Md. 2002)

10 *Staley v. Americorp*, 164 F.Supp.2d 578, 584 (D. Md. 2001)

11 *Secure Financial Service, Inc. v. Popular Leasing USA, Inc.*,  
12 391 Md. 274, 892 A.2d 571, (Md. 2005)

13 *Sweeney v. Savings First Mortg., LLC*, 388 Md. 319, 879 A.2d 1037, (Md. 2005)

14 *Levitt v. Fairfield Resorts, Inc.*, 383 Md. 209, 857 A.2d 1128, (Md. 2004)

15 *Thrasher v. Homecomings Financial Network, Inc.*, 154 Md.App. 77, 838 A.2d  
16 392, (Md.App. 2003)

17 *Drew v. First Guar. Mortg. Corp.*, 379 Md. 318, 842 A.2d 1, (Md. 2003)

18 *Ademiluyi v. PennyMac Mortg. Inv. Trust Holdings I, LLC*, 929 F.Supp.2d  
19 502 (D.Md., 2013)

20  
21 11. Neither of I, nor my co-counsel have any interests that would adversely  
22 affect any of us from acting as class counsel in this action.

23 I swear under penalty of perjury that the foregoing is true and correct to the best of my  
24 knowledge.

25 12. Attached as **EXHIBIT 1** are additional relevant excerpts from the deposition of  
26 Shaun Zuckerman taken on March 30, 2021.

1           13.     Attached as **EXHIBIT 2** are additional relevant excerpts from the deposition of  
2 Carol Strong taken on April 1, 2021.

3 Executed on June 18, 2021.

4                                 /s/ Scott C. Borison  
5                                 Scott C. Borison  
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